

## 0.08 BAC Illegal Per Se Level

It is illegal per se to drive a motor vehicle with a blood alcohol concentration (BAC) at or above a specified level in all but two States of the United States. The customary level, currently the law in 35 States and DC, was 0.10 for all drivers aged 21 and above. However, 13 states have lowered their level to 0.08. In a 1992 Report to Congress, NHTSA recommended that all states lower their illegal per se level to 0.08 for all drivers aged 21 and above.

### Key Facts

- In 1995, 41 percent of the 41,798 motor vehicle deaths were alcohol-related. This percentage translates into 17,274 alcohol-related deaths last year.
- Over 80 percent of drivers involved in fatal crashes with positive BACs had levels exceeding 0.08.
- An average male weighing 170 pounds must consume more than four drinks within one hour on an empty stomach to reach a 0.08 BAC level.
- A recent analysis of five states that lowered the BAC limit to 0.08 showed that significant decreases in alcohol-related fatal crashes occurred in four out of the five states as a result of the legislation.

### Why 0.08?

Virtually all drivers are substantially impaired at 0.08 BAC. Laboratory and test track research shows that the vast majority of drivers, even experienced drinkers, are impaired at 0.08 with regard to critical driving tasks. Braking, steering, lane changing, judgment, and divided attention, among other measures, are all

affected significantly at 0.08 BAC. Performance decrements in some of these tasks are as high as 60-70 percent at 0.08 BAC according to studies.

The risk of being involved in a crash increases substantially by 0.08 BAC. The risk of being in a crash gradually increases at each BAC level, but rises very rapidly after a driver reaches or exceeds 0.08 BAC compared to drivers with no alcohol in their blood systems. Research by the Insurance Institute for Highway Safety indicates that the relative risk of being killed in a single vehicle crash at 0.08 BAC is eleven times that of drivers at .00 BAC (no alcohol).

Lowering the per se limit is a proven effective countermeasure which will reduce alcohol-related traffic fatalities. There was a 12 percent reduction in alcohol-related fatalities in California in 1990, the year 0.08 and an administrative license revocation law went into effect. The decrease in alcohol-related fatalities occurred at both high and low BAC levels, even drivers with BACs of .20 or greater.

0.08 is a reasonable BAC level. A 0.08 BAC is not reached with a couple of beers after work or a glass or two of wine with dinner. Studies show that the average 170 pound male would have to consume more than four drinks within one hour on an empty stomach to reach 0.08 BAC. The average 137 pound female would need three drinks on an empty stomach to reach that level. Typically, that *(continued)*

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### Why 0.08? (continued)

female driver would need four drinks over a two hour period to get above 0.08 BAC and the male would need five drinks.

The public supports a 0.08 BAC level. NHTSA surveys all show that most people would not drive after consuming two or three drinks in an hour. Most other industrialized nations have set BAC limits at 0.08 or lower and have had these laws for many years. For example, Canada, Great Britain, Austria, and Switzerland have a 0.08 BAC level. The states in Australia have 0.05 or 0.08 BAC levels.

### Point Counterpoint

States considering 0.08 legislation should review all the facts, including the rationale behind 0.08 and the potential impact on alcohol-related deaths. Opposition to 0.08 legislation generally includes the following claims:

■ **Point:** 0.08 legislation will not affect high BAC problem drinker drivers.

**Counterpoint:** There is evidence that 0.08 legislation reduced the proportion of fatally injured drivers who had BACs greater than or equal to .20 in California.

■ **Point:** 0.08 legislation will affect alcohol consumption and, therefore, affect the economy.

**Counterpoint:** There is no evidence that per capita alcohol consumption was affected in any of the five states examined by NHTSA with the 0.08 legislation.

■ **Point:** 0.08 legislation is the first step in lowering the limit even further.

**Counterpoint:** NHTSA has no plan to recommend a per se limit below 0.08 for adult drivers. The agency does recommend, however, a zero tolerance limit for drivers under the age of 21 since they may not drink alcohol legally anyway, and a .04 limit for commercial drivers.

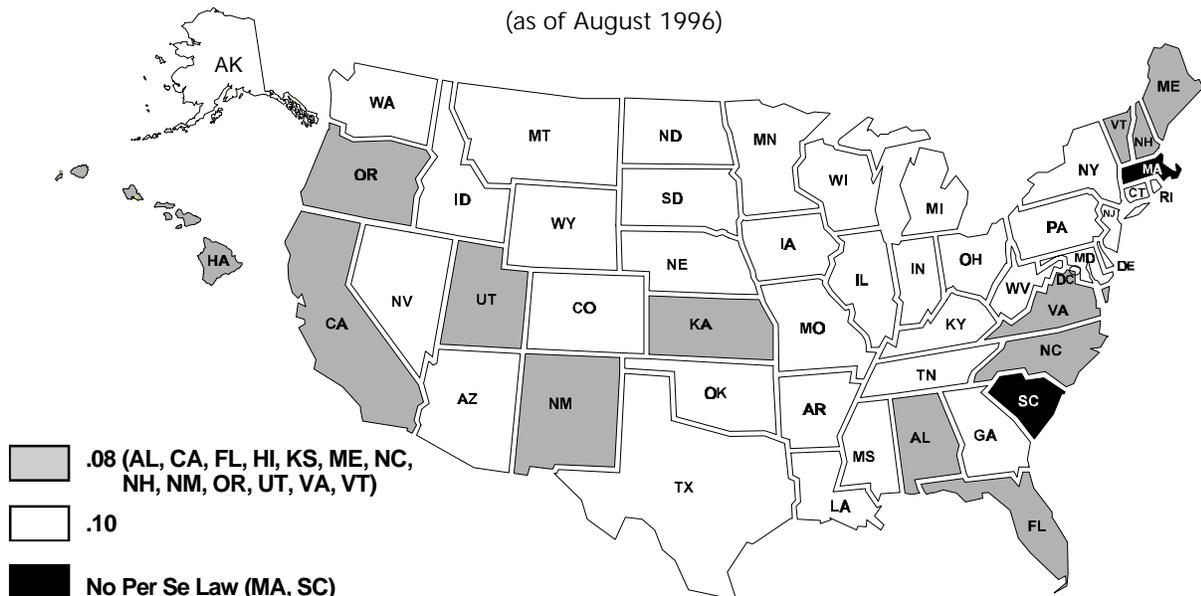
The 0.08 limit is reasonable and has the potential for saving thousands of lives and many more injuries on the highways if it is implemented by more states in the U.S.

### Impact on the Criminal Justice System

When California lowered the BAC limit to 0.08 there was little impact on court administrators or judges. The main impact has been on prosecutors' decisions concerning whether cases should be filed. Previously, DWI arrestees with BACs below 0.12 typically were allowed to plea to reduced charges. Since the limit was changed, this plea-bargain "cut off" has dropped to about 0.10 BAC. No increases have been reported in the proportion of DWI defendants pleading guilty, requesting jury trials, or appealing convictions.

### States with BAC Per Se Laws

(as of August 1996)



## Who Supports 0.08?

The following organizations support a BAC limit of 0.08 or lower:

- Advocates for Highway and Auto Safety
- All State Insurance
- American Alliance for Rights and Responsibilities
- American Association of Motor Vehicle Administrators
- American Association of Neurological Surgeons
- American Automobile Manufacturers Association
- American Coalition for Traffic Safety
- American Insurance Association
- American Medical Association
- American Spinal Injury Association  
American Trucking Associations
- Association for the Advancement of Automotive Medicine
- American Spinal Injury Association
- Center for Substance Abuse Prevention
- Federal Highway Administration
- Insurance Information Institute
- International Association of Chiefs of Police
- Insurance Institute for Highway Safety
- Kemper Insurance Group
- Mothers Against Drunk Driving (MADD)
- National Safety Council
- National Committee on Uniform Traffic Laws and Ordinances
- National Highway Traffic Safety Administration
- National Safety Council
- National Sheriffs' Association
- Nationwide Insurance
- Operation Lifesaver
- Students Against Driving Drunk
- U.S. Department of Justice
- USAA Insurance
- U.S. Surgeon General

## Information Sources

[Driving Under the Influence: A Report to Congress on Alcohol Limits.](#) NHTSA, Report Number DOT HS 807 879, October 1992.

[The Effects Following the Implementation of an 0.08 BAC Limit and an Administrative Per Se Law in California.](#) NHTSA, Report Number DOT HS 807 777, August 1991.

[The Effects of Low Doses of Alcohol on Driving Skills: A Review of the Evidence.](#) Moscowitz, Herbert and Robinson, Christopher D., National Technical Information Service, Springfield, VA, Report Number DOT HS 807 280, July 1988.

[Alcohol-Related Relative Risk of Fatal Driver Injuries in Relation to Driver Age and Sex.](#) Zador, Paul, Insurance Institute for Highway Safety, Journal of Studies on Alcohol, 52, 4, 1991.

[Alcohol Limits for Drivers: A Report on the Effects of Alcohol and Expected Institutional Responses to New Limits.](#) NHTSA, Report Number DOT HS 807 692, April 1991.

[Lowering the Illegal Per Se BAC Limit to .08, Point/Counterpoint.](#) NHTSA 1994.

[Improving the Understanding of Alcohol Impairment and BAC Levels, and their Relationship to Highway Accidents.](#) NHTSA Report DOT HS 807 433, May 1989.

[The 0.08 Alcohol Concentration Limit, House Research Policy Brief,](#) Minnesota House of Representatives, March 1994.

[.08 Saves Lives in Your State,](#) 11 Minute video on merits of .08 produced by USAA for NHTSA.

[.08 Blood Alcohol Content Laws: Facts, Myths, and Fictions.](#) Kathryn Stewart, Center for Substance Abuse Prevention, October 1993.

[The Impact of Lowering Illegal BAC Limit to .08 in Five States in the U.S.,](#) Johnson, Delmas; and Fell, James, NHTSA, 39th AAAM Proceedings, 1995.

***The reports and additional information are available from your State Highway Safety Office, the NHTSA Regional Office serving your State, or from NHTSA Headquarters, Traffic Safety Programs, NTS-20, 400 Seventh Street, S.W., Washington, DC 20590, 202-366-9588.***